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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,344	06/25/2003	Stefan Latza	F7659(V)	2612
201	7590	06/02/2006	EXAMINER	
UNILEVER INTELLECTUAL PROPERTY GROUP 700 SYLVAN AVENUE, BLDG C2 SOUTH ENGLEWOOD CLIFFS, NJ 07632-3100			PEARSE, ADEPEJU OMOLOLA	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/603,344

Applicant(s)

LATZA ET AL.

Examiner

Adepeju Pearse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 7-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 7-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Applicant's arguments, see page 6 of the remarks, filed 4/7/2006, with respect to claims 1-8 have been fully considered and are persuasive. The 35 U.S.C 112-second paragraph rejection of claims 1-8 has been withdrawn.

### ***Response to Arguments***

1. Applicant's arguments, see remarks page 7-8, filed 4/7/2006, with respect to the rejection(s) of claim(s) 1-3, 6 and 9-12 under 35 U.S.C 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made under 35 U.S.C 103.
2. Applicant argues that the Cuperus reference is directed to making one hole/opening. However, Cuperus discloses that an opening or openings maybe provided, therefore suggesting more than one opening (col 1 lines 54-67).
3. Applicant also argues that the Mercer reference has nothing to do with pasta. However, Mercer et al disclose examples of food products substantially rigid extruded tubular net of cereal-based material such as corn-based, wheat based or rice based and an extruded filling as instantly claimed (col 4 lines 25-30). It is well known in the art that pasta is made from these ingredients and would not have involved an inventive step to arrive at the instant invention.

***Claim Rejections - 35 USC § 103***

4. Claims 1-3 and 7-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burwell et al (U.S. Pat. No. 5,126,157) in view of Mercer et al (U.S. Pat. No. 4,563,358) and Cuperus (U.S. Pat. No. 5,693,351). With regard to claim 1, Burwell et al disclose edible products having a lattice structure made by extruding an edible material into discrete arrays of essentially parallel filaments (abstract). The product comprises two or more for example at least four superimposed pairs of arrays of essentially parallel filaments. The angle between superimposed arrays of parallel filaments may be as much as 90°C, but preferable less than 30°C (col 4 lines 6-16). The filaments may be of cooked or cookable pasta (col 3 line 64). The lattice structure may contain a filling (col 4 lines 1-5). However, Burwell failed to disclose the pasta content. Cuperus teaches a filled pasta product wherein the pasta is made using flour/semolina obtained by grinding grains of cereals such as hard wheat (col 2 lines 43-47). It would have been obvious to one of ordinary skill in the art to utilize these ingredients in preparing pasta because these are well known ingredients in the art.

5. With regard to claim 2, Burwell et al disclose a filament thickness of 1 to 3mm, which is within applicant's recited range.

6. With regard to claim 3, Burwell failed to disclose a network with regular repeating pattern. However, this would be an expected characteristic because the filaments are parallel and comprise of alternate superimposed arrays (col 4 lines 8-9).

7. With regard to claim 7, Burwell failed to disclose the filling material. However, Cuperus teaches filled pasta wherein the filling material includes meat, vegetables, cheese, etc (col 3 lines

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7-9). It would be obvious to one of ordinary skill in the art to modify Burwell et al with Cuperus by providing a filled pasta using the same filling material as taught by Cuperus in order to provide variety to the consumer.

8. With regard to claim 8, Burwell et al failed to disclose a rehydratable or deep frozen product. However, pasta is available in dry form and it is well known to reconstitute pasta in heated or hot water before consumption. Cuperus teaches a filled pasta product that is rehydratable by pouring a hot liquid before consumption (col 2 lines 19-27). It would have been obvious to one of ordinary skill in the art to modify the pasta product taught by Burwell et al with the teachings of Cuperus in order to produce a complete meal prepared in dehydrated form.

9. With regard to claim 9, Burwell et al failed to disclose the process for preparing a pasta product in a network or mesh-like structure by extrusion or the content of the pasta. However, Mercer et al teach a composite food product prepared by extruding an edible material through die orifices so as to produce a tube whose wall is composed of a net having mesh strands and intersections which are integrally formed (page 1 lines 19-21). The net can be formed by feeding edible material through die orifices defined between a pair of die members of which at least one is rotatable or oscillatable relative to the other to produce a tube net. By applicant's own prior art admission that networks may be suitably prepared by techniques known in the art of textile processing, plastic processing and also food processing (see page 4 of specification lines 28-32). Cuperus teaches a filled pasta product wherein the pasta is made using flour/semolina obtained by grinding grains of cereals such as hard wheat (col 2 lines 43-47), the product is heated at a temperature of 70°C to 90°C for a brief period in the order of 3 to 5 minutes (col 2 lines 22-26). Applicant recites a period of at least 30 seconds, which infers that it could be greater than 30

seconds, besides the period of heating would depend on the level of cooking intended by consumer. It would have been obvious to one of ordinary skill in the art to modify the Burwell with the teachings of Cuperus and Mercer et al because the ingredients in preparing pasta are well known ingredients in the art. In addition, it would not involve an inventive step in preparing filled net-like pasta products using extrusion because it is known in the art as taught by Mercer et al.

10. With regard to claim 10, Burwell et al failed to disclose the process for preparing a pasta product in a network or mesh-like structure by extrusion and the number of openings between the concentric elements. However, Mercer et al teach a composite food product prepared by extruding an edible material through die orifices so as to produce a tube whose wall is composed of a net having mesh strands and intersections which are integrally formed (page 1 lines 19-21). By applicant's own prior art admission that networks may be suitably prepared by techniques known in the art of textile processing, plastic processing and also food processing. It would be obvious to one of ordinary skill in the art to expect that the rotating die has multiple openings in order to be able to produce a filled pasta product.

11. With regard to claim 11, Burwell et al disclose that the lattice structure may contain a filling (col 4 lines 1-5).

12. With regard to claim 12, Burwell et al failed to disclose co-extruding the pasta dough and the filling. However, Mercer et al teach an extruded net product with an extruded filling (page 3 lines 19-25). It would be obvious to one of ordinary skill in the art to prepare a co-extruded product in order to prevent part of the filling from falling out of the net casing when it is being chewed.

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13. With regard to claims 13 and 14, Burwell et al failed to disclose a process for preparing ready-to-eat pasta. However, Cuperus teaches a pasta product that can be readily reconstituted for consumption by pouring a hot liquid at 70°C to 90°C, which encompasses the temperature recited by applicant for a brief period of 3 to 5 minutes (col 2 lines 19-26). Applicant recites a period of at least 30 seconds, which infers that it could be greater than 30 seconds, besides the period of heating would depend on the level of cooking intended by consumer. It would be obvious to one of ordinary skill in the art to modify the pasta product taught by Burwell et al with the teachings of Cuperus in order to produce a complete meal prepared in dehydrated form.

### *Conclusion*

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adepeju Pearse whose telephone number is 571-272-8560. The examiner can normally be reached on Monday through Friday, 8.00am - 4.30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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